

**Amendments to the Claims**

Please amend Claims 1, 7, 14, 19-21, 23 and 25. The Claim Listing below will replace all prior versions of the claims in the application:

**Claim Listing**

What is claimed is:

1. (Currently Amended) In a system for transmitting audio over a data network; and  
wherein received audio packets are stored in a jitter buffer in a receiver and read from the jitter buffer at a rate dependent on a jitter buffer latency which can be modified during periods of quasi silence, an apparatus for determining if a data packet contains one of two types of audio, non speech audio or speech audio comprising:  
a non speech detection module, which identifies the type of audio received as a data stream;  
an add header routine, which stores a non speech identifier with the audio in the data packet, the non speech identifier being stored in a header in the data packet; and  
a remove header routine, which detects the state of the non speech identifier in the header of ~~the a~~ received data packet to determine if non speech audio is stored in the payload of the received data packet, whereupon the jitter buffer latency can be modified.
2. (Previously Presented) The apparatus as claimed in Claim 1 wherein the non speech identifier is a one bit field included in the header in the data packet.
3. (Previously Presented) The apparatus as claimed in Claim 2 wherein the non speech identifier is stored in a Real time Transport Protocol header.
4. (Previously Presented) The apparatus as claimed in Claim 3 wherein the non speech identifier is set to a first of two states if the data packet contains non speech audio.

5. (Previously Presented) The apparatus as claimed in Claim 3 wherein the non speech identifier is set to a second state if the data packet contains speech audio.
6. (Previously Presented) The apparatus as claimed in Claim 1 wherein the remove header routine determines from the state of the non speech identifier that speech audio is included in the data packet whereupon the jitter buffer latency modification is disabled.
7. (Currently Amended) An apparatus for determining if a received data packet contains one of two types of audio, non speech audio or speech audio wherein received audio packets are stored in a jitter buffer in a receiver and read from the jitter buffer at a rate dependent on a jitter buffer latency which can be modified during periods of quasi silence, comprising:
  - means for identifying the type of audio received as a data stream;
  - means for storing a non speech identifier with the ~~non-speech~~ audio in the a data packet, the non speech identifier being stored in a header in the data packet; and
  - means for detecting the state of the non speech identifier in the header ~~audio stored in the payload of the received data packet dependent on the state of the non speech identifier in the header of the received data packet to determine if non speech audio is stored in the payload of the received data packet, whereupon the jitter buffer latency can be modified.~~
8. (Previously Presented) The apparatus as claimed in Claim 7 wherein the non speech identifier is a one bit field included in the header in the data packet.
9. (Previously Presented) The apparatus as claimed in Claim 8 wherein the non speech identifier is stored in a Real time Transport Protocol header.
10. (Previously Presented) The apparatus as claimed in Claim 9 wherein the non speech identifier is set to a first of two states if the data packet contains non speech audio.

11. (Previously Presented) The apparatus as claimed in Claim 9 wherein the non speech identifier is set to a second state if the data packet contains speech audio.
12. (Previously Presented) The apparatus as claimed in Claim 7 wherein upon detection of the non speech audio the means for detecting enables jitter buffer latency modification.
13. (Previously Presented) The apparatus as claimed in Claim 7 wherein upon detection of the non speech audio the means for detecting disables jitter buffer latency modification.
14. (Currently Amended) In a system for transmitting audio over a data network; and wherein audio packets are stored in a jitter buffer in a receiver and read from the jitter buffer at a rate dependent on a jitter buffer latency which can be modified during periods of quasi silence, a method for identifying a data packet containing one of two types of audio, non speech audio or speech audio comprising the steps of:
  - generating a non speech identifier which identifies which type of audio is in the data packet;
  - storing, by an add header routine, the non speech identifier with the audio in the data packet, the non speech identifier being stored in a header in the data packet; and
  - detecting, by a remove header routine, the state of the non speech identifier in the header of ~~the a~~ received data packet to determine if non speech audio is stored in the payload of the received data packet, whereupon the jitter buffer latency can be modified.
15. (Previously Presented) The method as claimed in Claim 14 wherein the non speech identifier is a one bit field included in a header in the data packet.
16. (Previously Presented) The method as claimed in Claim 15 wherein the non speech identifier is stored in a Real time Transport Protocol header.
17. (Previously Presented) The method as claimed in Claim 16 wherein the non speech identifier is set to a first of two states if the data packet contains non speech audio.

18. (Previously Presented) The method as claimed in Claim 16 wherein the non speech identifier is set to a second state if the data packet contains speech audio.
19. (Currently Amended) A computer program product for determining if a data packet contains one of two types of audio, non speech or speech audio, wherein received audio packets are stored in a jitter buffer in a receiver and read from the jitter buffer at a rate dependent on a jitter buffer latency which can be modified during periods of quasi silence, the computer program product comprising a computer usable medium having computer readable code thereon, including program code which:
- generates a non speech identifier which identifies which type of audio is in the data packet;
  - stores a non speech identifier with the ~~non-speech~~ audio in the data packet, the non speech identifier being stored in a header in the data packet; and
  - detects the state of the non speech identifier in the header ~~audio stored in the payload of the received data packet dependent on the state of the non speech identifier in the header of the received data packet~~ to determine if non speech audio is stored in the payload of the received data packet, whereupon the jitter buffer latency can be modified.
20. (Currently Amended) An apparatus for determining if a received data packet contains non speech audio or speech audio comprising:
- a transmitter, the transmitter comprising:
    - an add header routine which stores a non speech identifier with the non speech audio in ~~the a~~ data packet, the non speech identifier being stored in a header in the data packet; and
  - a receiver, the receiver comprising:
    - a remove header routine which detects the non speech audio stored in the payload of the received data packet dependent on the state of the non speech identifier whereupon the jitter buffer latency can be modified.

21. (Currently Amended) In a system for transmitting audio over a data network; and wherein received audio packets are stored in a jitter buffer in a receiver and read from the jitter buffer at a rate dependent on a jitter buffer latency which can be modified during periods of quasi silence, an apparatus for determining if a received data packet contains one of two types of audio, non speech audio or speech audio comprising:

a non speech detection module which identifies the type of audio received as a data stream;

an add header routine which stores a non speech identifier with the audio in ~~the~~ a data packet, the non speech identifier being stored in a one bit field included in a header in the data packet, the non-speech identifier set to a first of two states if the data packet contains non-speech audio; and

a remove header routine which detects the state of the non speech identifier in the header of the received data packet to determine if non speech audio is stored in the payload of the received data packet, whereupon the jitter buffer latency can be modified.

22. (Previously Presented) The system of claim 21, wherein the non-speech identifier is a user definable marker field in a Real time Transport Protocol header.

23. (Currently Amended) An apparatus for determining if a received data packet contains non speech audio or speech audio comprising:

means for storing a non speech identifier with the non speech audio in ~~the~~ a data packet, the non speech identifier being stored in a one bit field included in a header in the data packet; and

means for detecting the non speech audio stored in the payload of the received data packet dependent on the state of the non speech identifier in the header of the received data packet, the non-speech identifier set to a first of two states if the received data packet contains non-speech audio; and

means for detecting the state of the non speech identifier in the header of the received data packet to determine if non speech audio is stored in the payload of the received data packet, whereupon the jitter buffer latency can be modified.

24. (Previously Presented) The apparatus of claim 23, wherein the non-speech identifier is a user definable marker field in a Real time Transport Protocol header.
25. (Currently Amended) A computer program product for determining if a received data packet contains non speech or speech audio, the computer program product comprising a computer usable medium having computer readable code thereon, including program code which:
  - stores a non speech identifier with the non speech audio in ~~the~~ a data packet, the non speech identifier being stored in a one bit field included in a header in the data packet; and
  - detects non speech audio stored in the payload of the received data packet dependent on the state of the non speech identifier in the header of the received data packet, the non-speech identifier set to a first of two states if the received data packet contains non-speech audio.
26. (Previously Presented) The computer program product of claim 25, wherein the non-speech identifier is a user definable marker field in a Real time Transport Protocol header.